

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Clark et al.
Application No.: 10/572,975
Filed: May 10, 2007
For: **EXCRETABLE REPORTER SYSTEMS**

Confirmation No.: 4577
Group Art Unit: 1632
Examiner: Anoop Kumar Singh

Date: January 22, 2010

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Sir:

This response is submitted in reply to the Office Action dated December 24, 2009 (hereinafter "Office Action"). In the Office Action on page 2, it is stated that a new election of species is required in view of the amendments to claim 1 and 41 that are generic to the type of inducible promoter. The species are listed as following: inducible promoter that may be selected from following inducible genes: whose expression is modified in response to (i) disturbances in the homeostatic state of DNA, ii) oxidative stress or hypoxia; (iii) hepatotoxic stress; (iv) presence of a proapoptotic stimulus; (v) administration of chemical, drugs, or other xenobiotic agents; (vi) disease onset, either natural, modeled or induced. *See* Office Action, page 3.

Applicants hereby elect the species directed to (v) administration of chemical, drugs, or other xenobiotic agents. Claims 1-27 and 31-42 read upon the elected species.

It is Applicants' understanding that upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species that depend from or otherwise include the recitations of an allowable generic claim. Applicants respectfully request such consideration. Applicants further suggest, for the sake of efficient prosecution, that species (i), (ii), (iii) and/or (iv) also be considered as a search of one or more of these additional species would not pose an undue burden upon the Examiner particularly in view of the relationship of these species to species (v).

It is respectfully submitted that this application is now in condition for substantive examination, which action is requested. It is not believed that an extension of time and/or additional fee(s), including fees for additional claims, are required, beyond those that may

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otherwise be provided for in documents accompanying this paper. In the event, however, that an extension of time is necessary to allow consideration of this paper, such an extension is hereby petitioned under 37 C.F.R. §1.136(a). Any additional fees believed to be due in connection with this paper may be charged to our Deposit Account No. 50-0220.

The Examiner is encouraged to telephone the undersigned at 919-854-1400 for expeditious handling of the present application.

Respectfully submitted,




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CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on January 22, 2010.



Betty-Lou Roser
Date of Signature: January 22, 2010